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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,422	10/23/2003	Douglas Thai	PAT-1336CIP-CON	8371

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12420 Woodhall Way
Tustin, CA 92782

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/692,422

Applicant(s)

THAI, DOUGLAS

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22,23 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22,23 and 25-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 25-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

There is insufficient structure in the claim (25) to distinguish the hood connected to the top wall from the lid as well as how they (the lid and hood) cooperate to completely cover the opening.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patterson (US 5,105,975) in view of Lin (US 6,132,125).

Patterson discloses a container comprising a container body (10) having an inner chamber, a bottom wall (16), a top wall (32), an opening (34) provided in the top wall, and a tube (42) extending from the opening into the inner chamber to provide communication between the inner chamber and the exterior of the container body, wherein the container body includes a lower body (12) that receives liquid therein and having the bottom wall and an open upper mouth and an upper body (14) having the top wall and an open lower mouth, the upper body being removably connected to the lower body with the open mouths thereof in communication with each other to form the inner chamber.

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Patterson does not teach the container body including bubble solution therein and a stopper positioned inside the tube, the stopper having a shaft having a first end and a second end, with a serrated ring provided at the first end and a support section provided at the second end, wherein a rubber lining is provided around a portion of the support section and is received inside the tube.

Lin teaches a container having tube (11') extending through an opening, the tube having bubble solution therein and a stopper positioned inside thereof, the stopper having a shaft (32') having a first end and a second end, with a serrated ring (33') provided at the first end and a support section provided at the second end, wherein a lining (311') is provided around a portion of the support section and is received inside the tube.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the container of Patterson as a bubble solution container by applying the teaching of bubble solution in the container inner chamber and utilizing a stopper as taught by Lin to the container of Patterson. To make the lining of rubber would have been obvious to one having ordinary skill in the art at the time the invention, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so is an alternative use of the container and provides a non-spill bubble container for children's entertainment.

4. Claims 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Little Kids, Inc. No-Spill Bubble Tumbler ® in view of Lin.

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The No-Spill Bubble Tumbler® discloses a two-part container structure with a hole in the top wall of the upper container part, a tube extending from the opening, and a bubble wand therethrough. The No-Spill Bubble Tumbler® is silent regarding a lining around a portion of the support part of the bubble wand.

Lin teaches it is known to provide a bubble wand with a lining provided around a portion of the support end, the lining being received inside the tube.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a lining around a portion of the support end of the bubble wand of the No-Spill Bubble Tumbler®, the lining being received inside the tube of the container. To make the lining of rubber would have been obvious to one having ordinary skill in the art at the time the invention, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so provides a more spill-resistant container assembly.

5. Claims 22, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld (US 3,818,627) in view of Martindale (US 5,758,797).

Lebensfeld discloses a container body (12) having an inner chamber with bubble solution therein, a bottom wall, a top wall, and opening in the top wall, a lid pivotally coupled to the top wall and covering the opening, and a stopper having a shaft (32) with a serrated bubble ring (62) at one end and a lining provided around a portion of a support section of the wand and received inside the container opening. Lebensfeld does not disclose a tube extending from the opening.

Martindale teaches it is known to provide a spill resistant tube (106) to a container opening.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of the tube of Martindale to the container of Lebensfeld. Doing so provides a spill resistant feature to the container of Lebensfeld when the cap is removed from covering the opening.

6. Claims 30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebensfeld (US 3,818,627) in view of Martindale (US 5,758,797).

Lebensfeld discloses a container body (12) having an inner chamber with bubble solution therein, a bottom wall, a top wall, and opening in the top wall, and a stopper having a shaft (32) with a serrated bubble ring (62) at one end and a lining (34) provided around a portion of a support section of the wand and received inside the container opening. Lebensfeld does not disclose a tube extending from the opening.

Martindale teaches it is known to provide a spill resistant tube (106) to a container opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of the tube of Martindale to the container of Lebensfeld. To make the lining of rubber would have been obvious to one having ordinary skill in the art at the time the invention, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so provides a spill resistant feature to the container of Lebensfeld when the cap is removed from covering the opening.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 22 above, and further in view of Patterson.

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Lebensfeld as modified discloses the claimed container except for a lower body and an upper removably connected to one another via an open mouth on each body.

Patterson teaches it is known to provide a container with a lower body and an upper removably connected to one another via an open mouth on each body.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of Lebensfeld with a lower body and an upper removably connected to one another via an open mouth on each body. Doing so provides a larger opening for pouring additional bubble solution into the container inner chamber.

Response to Arguments

8. Applicant's arguments with respect to claims 22,23, and 25-33 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

9. Claims 25-27 appear to be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. In view of the new grounds of rejection, this Office action is made non-final.

11. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to

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and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art disclosures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

13. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

14. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.


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Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
January 19, 2007



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Primary Examiner
GAU 3781